

**SUBSTITUTE NO. 1 TO ORDINANCE NO. 09-041**

**AN ORDINANCE TO AMEND CHAPTER 37 OF THE  
CITY CODE REGARDING RESTRICTIONS ON USE  
OF A MOBILE TELEPHONE.**

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Rev.#1  
#3197

Sponsor:

Council  
Member  
Brown

Co-Sponsor:

Council  
Member  
Potter

**WHEREAS**, the City Council deems it necessary and appropriate to enact

provisions regarding the restricted use of a mobile telephone such that no person shall use a mobile telephone while operating a moving motor vehicle or while riding a bicycle unless the telephone or device is equipped with a hands-free accessory.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY**

**ORDAINS:**

**SECTION 1.** Chapter 37 of the City Code is hereby amended by adding

thereto a new § 37-196 to read as follows:

Sec. 37-196. Restrictions on use of a mobile telephone; civil offense.

(a) Definitions. For purposes of this section the following terms shall be applicable.

(1) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a mobile telephone.

(2) "Mobile telephone" means a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone messages without an access line for service.

(3) "Use" means talking, placing, or receiving a call, or attempting to place or receive a call, or texting or attempting to send a text, or email on a mobile telephone or other electronic devices.

(b) Restricted use of mobile telephone.

(1) No person shall use a mobile telephone while operating a moving motor vehicle or while riding a bicycle in the City of Wilmington unless the telephone or device is equipped with a hands-free accessory.

(2) The provisions of this section shall not apply to the following:

- a. Emergency use of a mobile telephone, including calls to 911, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad; and
- b. Use of a mobile telephone by law enforcement and emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of official duties.

(c) Enforcement; fines and penalties.

(1) A violation of the provisions of this section shall constitute a civil offense with a penalty of \$50, payable to the City of Wilmington Finance Department, Revenue Division.

**SECTION 2. Effective date.** This Substitute Ordinance shall be deemed effective on January 1, 2010.

First Reading .....June 18, 2009  
Second Reading.....June 18, 2009  
Third Reading .....August 20, 2009

Passed by City Council, Aug. 20, 2009

Norman D. Hiffert  
President of City Council 8/20/09

Attest: Maribel Ruiz  
City Clerk

Approved as to form this  
19<sup>th</sup> day of August, 2009.

Brandy Jane Roberts  
Senior First Assistant City Solicitor

Approved this 21<sup>st</sup> day of August, 2009.

James M. Baker  
Mayor

**SYNOPSIS:** This Substitute Ordinance amends Chapter 37 of the City Code to add provisions that allow mobile telephones to be used while operating a moving motor vehicle or while riding a bicycle only when equipped with built-in speakers or a hands-free accessory; prohibit placing or receiving text messages, sending or receiving emails on mobile telephones or other electronic devices; and establish penalties for violation of this Substitute Ordinance. This is a civil violation with a \$50 assessment.